

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

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STATE OF OKLAHOMA, et al.	)	
	)	
Plaintiffs,	)	
	)	
v.	)	Case No. 4:05-cv-00329-GKF-SAJ
	)	
TYSON FOODS, INC., et al.	)	
	)	
Defendants.	)	
	)	

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**TYSON POULTRY, INC.’S NOTICE OF SUPPLEMENTAL AUTHORITY IN  
FURTHER SUPPORT OF ITS MOTION TO DISMISS COUNT 3 OF  
PLAINTIFFS’ FIRST AMENDED COMPLAINT**

Defendant Tyson Poultry, Inc. (“Tyson”) respectfully submits this notice of supplemental authority relating to its *Motion To Dismiss Count 3 Of Plaintiffs’ First Amended Complaint* (“Motion to Dismiss”) (Docket No. 64). Since the Motion to Dismiss was filed, the United States Court of Appeals for the Tenth Circuit issued its opinion in *Karr v. Hefner*, 475 F.3d 1192 (10<sup>th</sup> Cir. 2007) (attached as Appendix A). In *Karr*, the Tenth Circuit addressed the adequacy of citizen suit notices under the Clean Water Act. *Karr* involved several defendants that owned or operated oil wells. The Tenth Circuit held that a broad, undifferentiated accusation that all of the defendants jointly polluted various waterbodies was not sufficient to satisfy the Clean Water Act’s notice requirements and that plaintiffs were required to specify which oil wells and which defendants were responsible for each allegedly illegal discharge. *See* 475 F.3d at 1200-06.

Because the standards for citizen suit notices under the Clean Water Act are similar to those for the Solid Waste Disposal Act (“RCRA”), *Karr* is relevant to Tyson’s argument that Plaintiff’s broad, undifferentiated accusation that all of the defendants jointly polluted unspecified parts of a million-acre-plus geographic area is not legally sufficient to satisfy RCRA’s notice requirements.

Dated: June 13, 2007

Respectfully submitted,

**BY:** /s/ Jay T. Jorgensen

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TYSON POULTRY, INC.; TYSON CHICKEN,  
INC; AND COBB-VANTRESS, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13<sup>th</sup> day of June, 2007, I electronically transmitted the foregoing document to the Clerk of the Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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